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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/625,080	07/25/2000	Stephen J. Brown	014030.0118N2US	6262

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PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

EXAMINER	
OUELLETTE, JONATHAN P	
ART UNIT	**PAPER NUMBER**
3629	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/625,080	BROWN, STEPHEN J.	
	Examiner	Art Unit	
	Jonathan Ouellette	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16,18 and 20-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16,18 and 20-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *20050901*.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. *20050804* .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Claims 1-15, 17, and 19 have been cancelled, and Claims 20-26 has been added; therefore, Claims 16, 18, and 20-26 are currently pending in application 09/625,080.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

4. Claim 18 recites the limitation "said client device" within the independent claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. **Claims 16, 18, and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chait et al. (US 5,639,471) in view of Yamamoto (US 4,685,059).**

7. As per **independent Claim 16**, Chait discloses a method of aggregating information from individuals in a population (Clinical trial/study, C8-C9) thereof, said method comprising: b) prompting each individual for health-related information, and collecting the health-related information for each individual (patient evaluations, C63-C68); e) generating statistical information from said collected information (Clinical data analysis, C67-C68); and g) repeating steps a-d after a period of time has elapsed (each established period for 10 weeks, C25-C28), wherein said statistical information comprises a first statistical measure for a first subpopulation of individuals (Test group 1) within the plurality of individuals and a second statistical measure for a second subpopulation (Control group 2) of individuals with the plurality of individuals (C61-C69).

8. Chait fails to expressly disclose a client device associated with each individual for health-related data collection; a) coupling a client device to a data collection element for each of a plurality of individuals in the population; c) sending the collected information from said client devices to a server device; and d) extracting the collected information from the data collection elements.

9. However, Yamamoto discloses a client device used to gather/store patient health-related information (home monitoring, C3-C4) and later transfer the health-related information to a medical provider database/system (C4 L36-62).

10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a) coupling a client device to a data collection

element for each of a plurality of individuals in the population; c) sending the collected information from said client devices to a server device; d) extracting the collected information from the data collection elements, as disclosed by Yamamoto in the system disclosed by Chait, for the advantage of providing a method of aggregating information from individuals in a population, with the ability to increase the efficiency of the system/method by collecting patient/user information from remote (out of hospital) locations (Yamamoto: C1 L16-59).

11. Chait and Yamamoto fail to expressly disclose f) distributing the statistical information to the individuals.

12. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to publish the clinical trial/study results, especially to those who participated in the clinical/study. Furthermore, it would have been obvious to transmit the findings of the study electronically to the participant, as It was known at the time of the invention that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

13. As per New Claim 20, Chait and Yamamoto disclose comparing the first statistical measure with the second statistical measure, and distributing a result of the comparison to the first subpopulation of individuals and to the second subpopulation of individuals (Chait: Clinical data analysis, C67-C68).

14. As per New Claim 21, Chait and Yamamoto fail to expressly disclose awarding a benefit to one or more of the individuals based on the result of the comparison.

15. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reward the participants of a clinical study with either monetary or physical awards, to show appreciation for their efforts in the study.

16. As per New Claim 22, Chait and Yamamoto disclose coupling a client device to the data collection element (Yamamoto: C4).

17. As per **independent Claim 18**, Chait discloses a system for aggregating information for individuals in a population thereof (Clinical trial/study, C8-C9), said system including: a data collection element disposed for collecting an individual value comprising health-related information for each of plurality of individuals in the population for health-related information (patient evaluations, C63-C68); wherein each system repeats collecting the individual value for the individual associated therewith (each established period for 10 weeks, C25-C28), said system the determination of at least one aggregate value in response to the repeated collections performed (Clinical data analysis, C67-C68), when a preset period of time has elapsed since the previous collection of individual values (1 week study period, C25-C28), determination of at least one aggregate value; and wherein the at least one aggregate value comprises a first statistical measure for a first subpopulation of individuals within the plurality of individuals (Test group 1) and a second statistical measure for a second subpopulation of individuals (Control group 2) within the plurality of individuals (C61-C69).

18. Chait fails to expressly disclose a client device for data collection; a server, disposed for receiving said individual values, for determining at least one aggregate value in response thereto, and extracting the collected information from the data collection elements.

19. However, Yamamoto discloses a client device used to gather/store patient health-related information (home monitoring, C3-C4) and later transfer the health-related information to a medical provider database/system (C4 L36-62).

20. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a client device for data collection; a server, disposed for receiving said individual values, for determining at least one aggregate value in response thereto, and extracting the collected information from the data collection elements, as disclosed by Yamamoto in the system disclosed by Chait, for the advantage of providing a method of aggregating information from individuals in a population, with the ability to increase the efficiency of the system/method by collecting patient/user information from remote (out of hospital) locations (Yamamoto: C1 L16-59).

21. Chait and Yamamoto fail to expressly disclose wherein said server device distributes said at least one aggregate value to a plurality of said client devices.

22. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to publish the clinical trial/study results, especially to those who participated in the clinical/study. Furthermore, it would have been obvious to transmit the findings of the study electronically to the participant, as It was known at the time of the invention that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

23. As per Claim 23, Chait and Yamamoto disclose wherein the server device is configured to compare the first statistical measure with the second measure, and distributing a result

of the comparison to the first subpopulation of individuals and to the second subpopulation of individuals (Chait: Clinical data analysis, C67-C68; see rejection of claim 18).

24. As per Claim 24, Chait and Yamamoto fail to expressly disclose wherein the server device is configured to award a benefit to one or more of the individuals based on the result of the comparison.

25. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reward the participants of a clinical study with either monetary or physical awards, to show appreciation for their efforts in the study.

26. As per Claim 25, Chait and Yamamoto disclose comprising a set of client devices, each couple to a respective data collection element (Yamamoto: C4).

27. As per Claim 26, Chait and Yamamoto disclose a communication path between said client devices and said server device (Yamamoto: C4, data transfer connection between client device and medical system).

Response to Arguments

28. Applicant's arguments with respect to Claims 16, 18, and 20-26 have been considered but are moot in view of the new ground(s) of rejection.

29. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

30. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.

32. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.

33. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

jo
October 25, 2005

JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600